

## REMARKS

### **I. Introduction**

Claims 1 to 38, and 40 to 43 are currently pending in the present application. Claims 1 to 38, and 40 to 43 stand rejected. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

Applicants thank the Examiner for considering the previously filed Information Disclosure Statement, 1449 paper, and cited references.

### **II. Rejection of Claims 1, 2, 4 to 10, 14 to 16, 18, 19, 24 to 30, 33 to 36, 41, and 43 Under 35 U.S.C. § 103(a)**

Claims 1, 2, 4 to 11, 14 to 16, 18, 19, 24 to 30, 33 to 36, 41, and 43 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of International Patent Application No. WO 99/66726 (“Dureau”) and U.S. Patent Publication No. 2002/0129372 (“Footer et al.”). Applicants respectfully submit that the Examiner’s proposed combination of Dureau and Footer et al. does not render unpatentable the present claims for at least the following reasons.

To reject a claim as obvious under 35 U.S.C. § 103, the prior art must disclose or suggest each claim feature and it must also provide a motivation or suggestion for combining the features in the manner contemplated by the claim. (*See Northern Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931, 934 (Fed. Cir. 1990), *cert. denied*, 111 S. Ct. 296 (1990); *In re Bond*, 910 F.2d 831, 834 (Fed. Cir. 1990)). Thus, the “problem confronted by the inventor must be considered in determining whether it would have been obvious to combine the references in order to solve the problem,” *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 679 (Fed. Cir. 1998).

Claim 1 recites “a collector configured to collect the interactive output from each of the plurality of subscribers and to store the collected interactive media output as a flat file.” Neither Dureau, nor Footer, nor their combination, teach this feature of Applicant’s claim 1. The Office Action admits that Dureau does not disclose a collector configured to store collected interactive media output as a flat file, and instead refers to Fig. 3B and paragraph 37 of Footer et al. as allegedly disclosing this feature. However, as set forth in Applicants’ Response, filed January 23, 2006, Fig. 3B and paragraph 37 of Footer refer to storing data *locally* in a customer’s IRD. They do not refer to storing data by collectors that are configured to collect output from each of a plurality of subscribers. Accordingly, without addressing whether Fig. 3B of Footer et al. illustrates storing of data as a flat file, it is

respectfully submitted that Footer et al. do not disclose or suggest a collector configured to collect interactive output from each of a plurality of subscribers and to store the collected output as a flat file. Further, one skilled in the art would not look to the teachings of Footer et al., regarding *locally* storing data of a *single* subscriber, for application of such teachings to the storing of data collected from a plurality of subscribers in a flat file. Accordingly, the combination of Dureau and Footer et al. does not disclose or suggest a collector configured to collect interactive output from each of a plurality of subscribers and to store the collected output as a flat file.

In the “Response to Arguments” section of the Final Office Action, the Examiner asserts that Footer et al. disclose a collector storing output from a plurality of subscribers as a flat file since the individual IRD files are routed to content servers. However, nowhere do Footer et al. indicate how the combined files of the subscribers are stored at the content servers. The Examiner states that “[s]ince the data was stored as a plurality of single actions, it is stored in the content servers as a flat file . . .” This assertion is apparently based on nothing more than pure conjecture or speculation, since this is not indicated in Footer et al. It is also based on improper hindsight, in view of the present application, which cannot support an obviousness rejection. In fact, Footer paragraph 30 expressly comments that his IBS 250 component with interacts with his “IDR” is preferably a SQL database – not a flat file storage.

In the “Response to Arguments” section of the Final Office Action, the Examiner further asserts that Footer et al. disclose this feature at paragraph 44, which indicates that a data log 900 may be saved as a flat table of ASCII text in the interactive server 940. While each data log corresponding to a single IRD for a single customer may be a flat file, nowhere do Footer et al. disclose or suggest storing a combination of such logs for a plurality of customers as a flat file. For example, a plurality of the individual flat files in Footer et al. may be relationally stored. Footer et al. are silent regarding how the plurality of logs 900 are stored.

Thus, the combination of Dureau and Footer et al. does not disclose or suggest a collector configured to collect interactive output from each of a plurality of subscribers and to store the collected output as a flat file.

Claims 14 recites “collecting the interactive output in a collector operably connected to said subscriber network and storing the interactive output in said collector as a flat file.” As set forth above in support of the patentability of claim 1, the combination of Dureau and Footer et al. does not disclose or suggest this feature.

Claim 15 recites “collecting interactive output from a plurality of subscribers . . . ; aggregating the collected output in the provided collection and aggregation system; and configuring and arranging the collection and aggregation system so that said collecting and aggregating is performed in real time.” The Office Action, with respect to claim 4, admits that Dureau does not disclose this feature, and instead refers to paragraph 8 of Footer et al. as allegedly disclosing this feature. As set forth in Applicants’ Response, filed January 23, 2006, the cited paragraph refers to communication of data from a customer’s IRD to a communication server. The combination of Dureau and Footer et al. does not disclose or suggest performance of collection and aggregation in real time. The Final Office Action does not address this argument. Applicants request that the Examiner address this argument in the next Office communication.

Claim 24 recites a communications message server that normalizes response requests received at an interactive media subscriber network to which the server is connected subsequent to the receipt of the requests at the subscriber network. As set forth in Applicants’ Response, filed January 23, 2006, the formatting performed at the set-top box in Dureau does not disclose, or even suggest, a message server for normalizing requests after the requests are received by a network from a plurality of access devices. Footer et al. are not relied upon as disclosing or suggesting this feature. Indeed, it is respectfully submitted that Footer et al. do not disclose or suggest this feature. Accordingly, the combination of Dureau and Footer et al. does not disclose or suggest all of the features recited in claim 24. The Final Office Action does not address this argument. Applicants request that the Examiner address this argument in the next Office communication.

Claim 33 recites “providing an interactive media subscriber network, said subscriber network including a plurality of access devices configured to transmit response requests from one or more subscribers to said subscriber network; parsing and formatting each of the response requests; collecting the formatted response requests as a flat file.” As set forth above in support of the patentability of claim 1, the combination of Dureau and Footer et al. does not disclose or suggest this feature.

Claim 41 recites “at least one of the n collectors configured to collect and to store as a flat file interactive output from a plurality of the subscribers.” As set forth above in support of the patentability of claim 1, the combination of Dureau and Footer et al. does not disclose or suggest this feature.

Thus, the combination of Dureau and Footer et al. does not disclose or suggest all of the features recited in any of claims 1, 14, 15, 24, 33, and 41. It is therefore

respectfully submitted that the combination of Dureau and Footer et al. does not render unpatentable any of claims 1, 14, 15, 24, 33, and 41.

Claims 2, 4 to 11, and 43 ultimately depend from claim 1 and therefore include all of the features recited in claim 1. It is therefore respectfully submitted that the combination of Dureau and Footer et al. does not render unpatentable these dependent claims for at least the same reasons set forth above in support of the patentability of claim 1. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988) (any dependent claim that depends from a non-obvious independent claim is non-obvious).

Furthermore, claim 5 includes subject matter similar to that of claim 24. It is therefore respectfully submitted that the combination of Dureau and Footer et al. does not render unpatentable claim 5 additionally for at least reasons similar to those set forth in support of the patentability of claim 24.

Claims 16, 18, and 19 ultimately depend from claim 15 and therefore include all of the features recited in claim 15. It is therefore respectfully submitted that the combination of Dureau and Footer et al. does not render unpatentable these dependent claims for at least the same reasons set forth above in support of the patentability of claim 15.

Claims 25 to 30 ultimately depend from claim 24 and therefore include all of the features recited in claim 24. It is therefore respectfully submitted that the combination of Dureau and Footer et al. does not render unpatentable these dependent claims for at least the same reasons set forth above in support of the patentability of claim 24.

Claims 34 to 36 ultimately depend from claim 33 and therefore include all of the features recited in claim 33. It is therefore respectfully submitted that the combination of Dureau and Footer et al. does not render unpatentable these dependent claims for at least the same reasons set forth above in support of the patentability of claim 33.

It is therefore respectfully requested that the obviousness rejections of claims 1, 2, 4 to 11, 14 to 16, 18, 19, 24 to 30, 33 to 36, 41, and 43 be withdrawn.

### **III. Rejection of Claims 12, 13, 20 to 23, 31, 32, 37, and 38 Under 35 U.S.C. § 103(a)**

Claims 12, 13, 20 to 23, 31, 32, 37, and 38 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Dureau, Footer et al., and U.S. Patent No. 6,160,989 (“Hendricks et al.”). Applicants respectfully submit that the Examiner’s proposed combination of Dureau, Footer et al., and Hendricks et al. does not render unpatentable claims 12, 13, 20 to 23, 31, 32, 37, and 38 for the following reasons.

Claim 22 recites “an interactive media subscriber network, said subscriber network receiving the interactive output from a plurality of access devices; at least one collector operably connected to said subscriber network that collects the interactive output from said subscriber network and stores the interactive output as a flat file.” As set forth above in support of the patentability of claim 1, the combination of Dureau and Footer et al. does not disclose or suggest this feature. Hendricks et al. are not relied upon for correcting this deficiency of the combination of Dureau and Footer et al. Indeed, it is respectfully submitted that Hendricks et al. do not correct this deficiency. It is therefore respectfully submitted that the combination of Dureau, Footer et al., and Hendricks et al. does not render unpatentable claim 22.

Claims 12 and 13 ultimately depend from and therefore include all of the features recited in claim 1. As set forth above in support of the patentability of claim 22, the combination of Dureau, Footer et al., and Hendricks et al. does not disclose or suggest all of the features recited in claim 1. It is therefore respectfully submitted that the combination of Dureau, Footer et al., and Hendricks et al. does not render unpatentable claims 11 to 13, which ultimately depend from claim 1.

Claims 20 and 21 depend from and therefore include all of the features recited in claim 15. As set forth above in support of the patentability of claim 15, the combination of Dureau and Footer et al. does not disclose or suggest all of the features recited in claim 15. Hendricks et al. are not relied upon for correcting the deficiencies noted above with respect to the combination of Dureau and Footer et al. Indeed, it is respectfully submitted that Hendricks et al. do not correct the deficiencies noted above with respect to the combination of Dureau and Footer et al. It is therefore respectfully submitted that the combination of Dureau, Footer et al., and Hendricks et al. does not render unpatentable claims 20 and 21, which depend from claim 15.

Claim 23 depends from and therefore includes all of the features recited in claim 22. It is therefore respectfully submitted that the combination of Dureau, Footer et al., and Hendricks et al. does not render unpatentable claim 22 for at least the same reasons set forth above in support of the patentability of claim 22.

Claims 31 and 32 ultimately depend from and therefore include all of the features recited in claim 24. As set forth above in support of the patentability of claim 24, the combination of Dureau and Footer et al. does not disclose or suggest all of the features recited in claim 24. Hendricks et al. are not relied upon for correcting the deficiencies noted above with respect to the combination of Dureau and Footer et al. Indeed, it is respectfully

submitted that Hendricks et al. do not correct the deficiencies noted above with respect to the combination of Dureau and Footer et al. It is therefore respectfully submitted that the combination of Dureau, Footer et al., and Hendricks et al. does not render unpatentable claims 31 and 32, which ultimately depend from claim 24.

Claims 37 and 38 depend from and therefore include all of the features recited in claim 33. As set forth above in support of the patentability of claim 33, the combination of Dureau and Footer et al. does not disclose or suggest all of the features recited in claim 33. Hendricks et al. are not relied upon for correcting the deficiencies noted above with respect to the combination of Dureau and Footer et al. Indeed, it is respectfully submitted that Hendricks et al. do not correct the deficiencies noted above with respect to the combination of Dureau and Footer et al. It is therefore respectfully submitted that the combination of Dureau, Footer et al., and Hendricks et al. does not render unpatentable claims 37 and 38, which depend from claim 33.

It is therefore respectfully requested that the obviousness rejections of claims 12, 13, 20 to 23, 31, 32, 37, and 38 be withdrawn.

#### **IV. Rejection of Claims 3, 17, 40, and 42 Under 35 U.S.C. § 103(a)**

Claims 3, 17, 40, and 42 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Dureau and U.S. Patent No. 6,714,985 (“Malagrino et al.”) (incorrectly referred to by the Examiner as “Gai”). Applicants assume that the Examiner intended to reject these claims in view of the combination of Dureau, Footer et al., and Malagrino et al. Applicants respectfully submit that the combination of Dureau, Footer et al., and Malagrino et al. does not render unpatentable claims 3, 17, 40, and 42 for the following reasons.

Claim 3 ultimately depends from and therefore includes all of the features recited in claim 1. As set forth above in support of the patentability of claim 1, the combination of Dureau and Footer et al. does not disclose or suggest all of the features recited in claim 1. Malagrino et al. are not relied upon for correcting the deficiencies noted above with respect to the combination Dureau and Footer et al. Indeed, it is respectfully submitted that Malagrino et al. do not correct the deficiencies noted above with respect to the combination of Dureau and Footer et al. It is therefore respectfully submitted that the combination of Dureau, Footer et al., and Malagrino et al. does not render unpatentable claim 3, which ultimately depends from claim 1.

Claim 17 ultimately depends from and therefore includes all of the limitations of claim 15. As set forth above in support of the patentability of claim 15, the combination of Dureau and Footer et al. does not disclose or suggest all of the features recited in claim 15. Malagrino et al. are not relied upon for correcting the deficiencies noted above with respect to the combination of Dureau and Footer et al.. Indeed, it is respectfully submitted that Malagrino et al. do not correct the deficiencies noted above with respect to the combination of Dureau and Footer et al. It is therefore respectfully submitted that the combination of Dureau, Footer et al., and Malagrino et al. does not render unpatentable claim 17, which ultimately depends from claim 15.

Claims 40 and 42 depend from and therefore include all of the features recited in claim 41. As set forth above in support of the patentability of claim 41, the combination of Dureau and Footer et al. does not disclose or suggest all of the features recited in claim 41. Malagrino et al. are not relied upon for correcting the deficiencies noted above with respect to the combination of Dureau and Footer et al. Indeed, it is respectfully submitted that Malagrino et al. do not correct the deficiencies noted above with respect to the combination of Dureau and Footer et al. It is therefore respectfully submitted that the combination of Dureau, Footer et al., and Malagrino et al. does not render unpatentable claims 40 and 42, which depend from claim 41.

It is therefore respectfully requested that the obviousness rejections of claims 3, 17, 40, and 42 be withdrawn.

**V. Conclusion**

In light of the foregoing, it is respectfully submitted that all of the presently pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

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